

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension or )  
Revocation of the License to Conduct )  
Gambling Activities of: )  
)  
Kozy Tavern, )  
Everett, Washington, )  
)  
Licensee. )

No. CR 2012-01300

**NOTICE OF ADMINISTRATIVE  
CHARGES AND OPPORTUNITY  
FOR ADJUDICATIVE PROCEEDING**

I.

The Washington State Gambling Commission issued Kozy Tavern, organization number 00-21018, the following license:

- Number 05-20451, Authorizing Class "E" Punchboard/Pull-Tab activity.

The license expires on September 30, 2013, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

**SUMMARY:**

Kozy Tavern failed to pay required gambling taxes to the City of Everett in the amount of \$34,916.96. As a result, the City petitioned the Commission to take administrative action against Kozy Tavern.

**FACTS:**

- 1) On September 18, 2012, a Washington State Gambling Commission Special Agent (agent) was assigned the license file for Kozy Tavern to research their failure to pay required gambling taxes.
- 2) On September 14, 2012, Commission staff received an affidavit from the City of Everett stating Kozy Tavern had failed to make required gambling tax payments.
- 3) The affidavit documents the City's attempts to collect the past due gambling taxes due, as follows:
  - On March 7, 2011, a notice was sent from the City of Everett to Kozy Tavern informing them that tax payments were delinquent for the fourth quarter of 2009, and the first, second, third, and fourth quarters of 2010, as well as a remaining balance of \$3,277.31

from the third quarter of 2009. This correspondence warned Kozy Tavern: "If we do not receive payment by March 28, 2011, we will be forced to notify the Washington State Gambling Commission and request revocation of your gambling license."

- On May 17, 2011, a notice was sent from the City of Everett to Commission staff stating Kozy Tavern had failed to pay required gambling taxes for the third and fourth quarters of 2009, the first, second, third, and fourth quarters of 2010, and the first quarter of 2011. As of the second quarter of 2010, Kozy Tavern owed \$12,312.27, plus penalties of \$3,485.84.
  - On May 18, 2011, Commission staff sent correspondence to Kozy Tavern notifying them that failure to pay their gambling taxes could end in suspension or revocation of its license. Commission staff sent Kozy Tavern a similar letter in November of 2009.
  - On June 28, 2011, the City of Everett sent correspondence to Commission staff stating no payments or other communications had been received from Kozy Tavern. The letter also stated that Kozy Tavern now owed \$18,519.11 through fourth quarter of 2010 plus a penalty of \$5,106.46.
  - On September 14, 2011, the City of Everett sent a notice to Kozy Tavern stating no payments had been received since Kozy Tavern entered into a repayment agreement on July 13, 2011.
  - On February 8, 2012, the City of Everett sent notice to Kozy Tavern regarding missed tax payments.
  - On June 5, 2012, the City of Everett sent a notification to Kozy Tavern that the taxes for the first quarter of 2012 had not been received. The notice states the total amount due in delinquent taxes was \$28, 212.66.
- 4) The City of Everett also provided Commission staff with an updated spreadsheet detailing the delinquent taxes due through the second quarter of 2012 as \$34,916.96. The City of Everett also provided Commission staff with a copy of Everett City Ordinance 3.36 Gambling Tax.
- 5) As of October 5, 2012, these delinquent taxes had not been paid, and the issue has been turned over to a collection agency.

#### **ADMINISTRATIVE HISTORY:**

- In 2009, Kozy Tavern conducted activity without a license and received a warning letter.
- In 2010, Kozy Tavern was issued a NOVAS<sup>1</sup> and paid a fine for late activity report filing.

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<sup>1</sup> NOVAS –A Notice of Violation and Settlement identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.

- In 2011, Kozy Tavern was issued another NOVAS and paid a fine for late activity report filing. Also in 2011, the City of Everett submitted a petition and charges were issued, but they later dismissed when Kozy Tavern came into compliance with the City.
- In 2012, charges were issued for filing a late activity report. The case was resolved in May with a Settlement Order. The licensee agreed to 15-day suspension. The licensee vacated 12 days vacated by paying a \$1,300 fine, and had three days deferred for one year, subject to the licensee not violating any gambling statues or regulations during the one year period. If the violation warranted administrative or criminal charges, the Director may impose the three-day suspension. Grounds therefore exist to impose the 3-day suspension deferred in the Settlement Order.

## **VIOLATIONS:**

**RCW 9.46.075 (1), (4), and (8) Denying, suspending, or revoking an license or permit** provides that the commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;

**WAC 230-03-085 (1), (3), and (4) Denying, suspending, or revoking an license or permit**  
We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority has petitioned us to take action.

The licensee's repeated failure to pay local gambling taxes to the City of Everett demonstrates its willful disregard for complying with local ordinances. Therefore, grounds exist to suspend or revoke Kozy Tavern's license under RCW 9.46.075 (1), and (8) and WAC 230-03-085(1), (3) and (4).

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

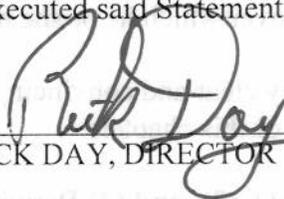
The licensee will have the opportunity to have a hearing on the alleged violations.

**In order to have a hearing or discuss settlement options**, the enclosed REQUEST FOR HEARING must be COMPLETED AND RETURNED to the Gambling Commission *within 23 days* from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return this document will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF THURSTON )

Rick Day, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same to be true, and that he is the Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.

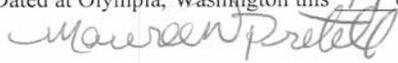
  
\_\_\_\_\_  
RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me this 19 day of October, 2012.

  
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NOTARY PUBLIC in and for the State of Washington residing at: Thurston County  
My commission expires on December 2, 2015

STATE OF WASHINGTON )  
 )  
COUNTY OF THURSTON )

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 19 day of October, 2012  




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